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**Human rights situation in Palestine and other occupied Arab territories**

# Implementation of Human Rights Council resolutions S-9/1 and S-12/1

## Report of the United Nations High Commissioner for Human Rights

*Summary*

In the present report, the United Nations High Commissioner for Human Rights highlights issues of concern in the Occupied Palestinian Territory, with a focus on the use of excessive force and unlawful killings, collective punishment, arbitrary and administrative detention, torture and ill-treatment, and impermissible restrictions on freedom of expression. The report ends with recommendations to all duty bearers, namely the Government of Israel, the Palestinian Authority and the authorities in Gaza.

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# I. Introduction

1. The present report is the eighth periodic report of the United Nations High Commissioner for Human Rights on the human rights situation in the Occupied Palestinian Territory. It covers the period from 1 November 2014 to 31 October 2015.

2. The information contained herein primarily emanates from human rights monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory, within the framework of Human Rights Council resolutions S-9/1 and S-12/1. The report also reflects information from other United Nations entities and from non-governmental organizations (NGOs).

3. The report should be read in conjunction with recent reports of the Secretary-General (A/HRC/31/43, A/HRC/31/44, A/70/351 and A/70/421), which present additional relevant information for the reporting period. As requested in Council resolution 29/25, the status of implementation of the recommendations of the independent commission of inquiry on the 2014 Gaza conflict and of the 2009 United Nations Fact-Finding Mission on the Gaza Conflict is presented in an addendum to the present report (A/HRC/31/40/Add.1).

4. According to the Office for the Coordination of Humanitarian Affairs, the reporting period saw a dramatic rise in casualties in the Occupied Palestinian Territory, with 95 Palestinians killed (including 18 children) and 10,481 injured (including 1,489 children). Twenty Israelis were killed and 127 were injured in attacks by Palestinians. At least 74 Palestinians were killed[1] in the West Bank, including East Jerusalem — the highest number of fatalities since 2007.

5. In November 2014, tensions continued over the status quo at the Al-Aqsa mosque compound in East Jerusalem (see A/HRC/28/45, para. 57), with regular clashes occurring. Despite some relative calm in the first half of 2015, the situation remained fragile, with peace negotiations to end the long-standing occupation stalled.

6. On 31 July 2015, Israeli settlers set ablaze a Palestinian home in Duma village in Nablus governorate, killing a couple and their 18-month-old child (see A/HRC/31/43, para. 35). The Under-Secretary-General for Political Affairs emphasized that the attack had occurred in the context of a chronic lack of adequate law enforcement in the West Bank, adding that such violence was possible because of the environment created as a result of the decades-long policy of Israel of illegal settlement activities.[2]

7. From mid-September 2015, serious confrontations between Palestinians and Israeli security forces again erupted in connection with the Al-Aqsa mosque compound. These were fuelled by Palestinian concerns over access restrictions imposed on Palestinians seeking to enter the Old City of Jerusalem, and visits by groups belonging to the temple Mount and Land of Israel Faithful movement groups and senior Israeli officials. Although the Israeli authorities categorically denied plans to change the status quo, their decision to ban from the compound the Murabitat and Murabitin, the groups of activists who seek to protect it, and a raid by the Israeli security forces on the mosque itself on 13 September were seen by many Palestinians as provocations.

8. Unrest, including protests and clashes, spread rapidly throughout the Occupied Palestinian Territory. There was also a large number of stabbings and alleged attempted stabbings by young Palestinians, many of whom were children. October 2015 saw a peak

[1] Including four Palestinians (one child) killed by Israeli settlers.

[2] Briefing to the Security Council on the situation in the Middle East, 19 August 2015.

in violence. OHCHR documented the killing of 65 Palestinians and 9 Israelis in the West Bank.[3] Palestinian casualties in October were the highest in a single month since the Office for the Coordination of Humanitarian Affairs commenced recording casualties in 2005. The Deputy Secretary-General highlighted that this wave of violence would not have erupted "if the Palestinians did not still live under a stifling and humiliating occupation that has lasted almost half a century".[4]

# II. Legal framework

9. International human rights law and international humanitarian law apply in the Occupied Palestinian Territory. Israel therefore remains bound by its obligations as the occupying Power, even though the State of Palestine has undertaken obligations by ratifying several international treaties (see A/HRC/28/80, para. 66). Despite the existence of a government of national consensus in the State of Palestine, authorities or groups exercise government-like functions and control over territory in Gaza and are therefore also bound by relevant human rights law in that territory (see A/HRC/8/17, para. 9).

# III. Human rights violations by all duty bearers

## A. Israeli authorities

### 1. Excessive use of force and unlawful killings, including possible extrajudicial executions

10. The reporting period saw a sharp increase in apparent incidents of excessive use of force, both in the context of clashes and in response to attacks or alleged attacks by Palestinians against Israelis. Some of these responses strongly suggest unlawful killings, including possible extrajudicial executions. As the High Commissioner has said, "in the context of suspected attacks, several Palestinians have been killed by Israeli security forces, sometimes allegedly acting with disproportionate force, to the extent that extrajudicial killings are strongly suspected".[5]

11. In one case monitored by OHCHR, 18-year-old Hadeel al-Hashlamoun was shot dead by Israeli soldiers on 22 September 2015 at a pedestrian checkpoint in Hebron's old city, close to a number of settlements. According to two witnesses, one of whom photographed the entire incident,[6] Ms. Al-Hashlamoun was trying to walk away from the checkpoint after a standoff with soldiers when one of them shot her left leg. She fell to the ground, dropping her bag and, according to one witness, a knife. Both witnesses say that after 10 or 15 seconds, the same soldier shot her in her right leg, then five to six times in the abdomen and chest. He then moved closer, until he was only a metre away, and reportedly fired a last bullet into the victim's chest, even though the other soldiers were shouting at him to stop, saying she was dead.

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[3] An Israeli soldier was also killed in an attack in Beer Sheva, Israel. The Israeli Bedouin attacker and an Eritrean bystander were killed by security guards.

[4] Briefing to the Security Council on the situation in the Middle East, 22 October 2015.

[5] Statement by the High Commissioner at a special meeting of the Human Rights Council, 28 October 2015.

[6] See http://sanaud-voltaremos.blogspot.com.br/p/brazil-26th-september-2015.html?m=1.

12. According to the witnesses at the time of the first shot, Ms. Al-Hashlamoun was static and at least 3 metres away from the soldiers, separated by a 1-metre-high metal barrier. The witnesses stated that she did not make any aggressive movement and did not get close to the soldiers. Reports stating the victim was carrying a knife indicated it had fallen to the ground after the first shot, at which point she no longer posed an imminent threat to the soldiers. Thus, the repeated shots to her upper body, while she was lying wounded on the ground, seemed unnecessary and suggest an unlawful killing. Furthermore, the last single shot to her chest, fired from close range, may be indicative of an extrajudicial execution and a wilful killing.

13. The footage from the surveillance cameras at the checkpoint has not been released, but an Israel Defense Forces (IDF) inquiry is reported to have concluded that the death of Ms. Al-Hashlamoun was unnecessary and avoidable.[7] No criminal investigation had been opened in the case as of 26 November.[8]

14. A large proportion of attackers or alleged attackers have similarly been shot dead.[9] OHCHR monitored several cases suggesting excessive use of force leading to arbitrary deprivation of life.[10] For example, on 14 October 2015, in East Jerusalem, Israeli security forces personnel shot to death 19-year-old Basil Basim Sidir while he was running away from them. Witnesses interviewed by OHCHR and a publicly available video of the incident indicate that Mr. Sidir was shot repeatedly, at least 12 times, after the first shot had brought him to the ground. He was apparently armed with a knife, but no longer presented an imminent threat once shot. The killing of Fadi Alloun, in East Jerusalem, on 4 October, may also amount to an extrajudicial execution. At least three different videos of the incident show him walking, surrounded by a group of Israelis. Although some reports allege that he had just stabbed someone and was holding a knife, this is not apparent on video. After repeated goading from the crowd, a policeman shot him, although Mr. Alloun did not appear to be presenting any imminent threat. Mr. Alloun was shot seven times, despite having fallen to the ground after the first shot. OHCHR is unaware of investigations into either of these apparently unlawful killings.

15. Law enforcement officials, including members of the armed forces acting in that capacity, have the duty to protect the public and the right to protect themselves, but any force used must be necessary and proportionate. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials specify that firearms may be used only when strictly necessary to protect against the imminent threat to life or of serious injury and only when less extreme means are insufficient to protect against that imminent threat. Loss of life resulting from a failure to respect this principle amounts to a violation of the right to life. In addition, when unjustified and illegal use of firearms by law enforcement officials of the occupying Power is made against protected persons, this may, depending on the circumstances, amount to an act of wilful killing.

16. OHCHR is further concerned about reports of deaths attributable to a delay in the provision of medical assistance to wounded suspects, or owing to Israeli security forces' intentional blocking of ambulances and first responders. For example, witnesses informed OHCHR that an Israeli medic arrived 12 minutes after Hadeel al-Hashlamoun was shot, but

[7] Gili Cohen, "IDF inquiry: shooting of Palestinian girl in Hebron could have been avoided", *Haaretz*, 1 November 2015.

[8] Information from a Military Police letter sent to B'tselem, dated 26 November 2015.

[9] According to OHCHR documentation, 39 attackers or suspects were shot dead in October 2015 and 17 were arrested.

[10] See article 6 of the International Covenant on Civil and Political Rights. See also Steven Klein, "Why Israel's Unwritten 'Shoot to Kill' Policy Is So Dangerous", *Haaretz*, 20 October 2015.

that she was not given first aid. Local media reports said Palestinian medics present at the checkpoint were prevented from reaching Ms. Al-Hashlamoun, and she was left bleeding for about 30 minutes. Similarly, regarding Basil Basim Sidir, two witnesses interviewed by OHCHR stated that, although a medical team had reached the spot within a few minutes, the Israeli security forces did not allow them to attend to the victim for around 15 minutes. The Basic Principles require provision of assistance and medical report "at the earliest possible moment" (principle 5 (c)).

17. Concerns over unlawful killings are underscored by some statements of government officials at the time. For instance, the Minister of the Interior, Gilad Erdan, reportedly declared that "every terrorist should know that he will not survive the attack he is about to commit", while Jerusalem police chief Moshe Edri reportedly declared: "anyone who stabs Jews or hurts innocent people is due to be killed".[11] Knesset member and former minister Yair Lapid told Israeli citizens not to hesitate to "shoot to kill anyone who pulls out a knife or screwdriver".[12] Such statements may help explain why most recent attackers were shot to death, contrary to similar incidents between November 1993 and November 2014, when most knife-attackers were reported to have been apprehended.[13] The above-mentioned statements preceded a number of vigilante incidents, with persons (including Israelis) shot by mistake or on the basis of mere suspicion.

18. Concerns of the excessive use of force also arise in respect of the policing by Israeli security forces of protests. Most clashes during the reporting period involved Palestinians throwing stones, fireworks or Molotov cocktails at elements of the Israeli security forces. In response, the security forces extensively used tear gas, "skunk water", stun grenades and rubber-coated metal bullets. However, the frequent resort to firearms (including 0.22 calibre rifles) against demonstrators raises serious concern. OHCHR documented 18 Palestinians shot dead, and the Office for the Coordination of Humanitarian Affairs reported 825 injured with live ammunition in the context of clashes.

19. IDF states that the use of live ammunition is only permitted when there is "an actual and immediate threat to life, as the last option in the procedures for stopping a suspect, as well as in certain circumstances to contend with the threat to life posed during violent riots".[14] However, in many instances, people killed or injured by live ammunition did not appear to present any threat to life or of serious injury.

20. In one incident monitored by OHCHR, 20-year-old Ihab Jihad Yousef Hanani was shot dead by Israeli security forces on 16 October 2015, at Beit Furik village in Nablus governorate. He was hit in the upper chest with live ammunition while apparently helping to evacuate injured people during clashes. Six other protestors had also been wounded in their legs by live ammunition. While some protesters were throwing stones, there was no indication of any imminent threat to the soldiers who were standing over 100 metres away from the crowd. The use of live ammunition therefore appeared unwarranted and unlawful.

21. Live ammunition has been commonly used in the access-restricted areas in Gaza, particularly affecting farmers and fishermen (see A/70/421, para. 35, and A/HRC/31/44. During the reporting period, the United Nations Department of Safety and Security reported

[11] Ibid.

[12] See BBC, "Hard Talk" interview. Available from www.youtube.com/watch?v=k7WeqyMI_GU (at 4:05).

[13] Steven Klein, "Why Israel's Unwritten 'Shoot to Kill' Policy Is So Dangerous", referring to www.jewishvirtuallibrary.org/jsource/Terrorism/victims.html.

[14] Undated IDF spokesperson reply to B'tselem ("Crowd control: Israel's use of crowd control weapons in the West Bank", 2013, p. 55). IDF open-fire regulations are confidential documents.

508 incidents in which IDF used live ammunition at the Israel-Gaza fence, and 316 at sea, as well as 9 incidents of Palestinians shooting at Israelis.

22. As protests spread into Gaza in October 2015, there were several instances suggesting the unwarranted use of live ammunition against demonstrators near the Israel-Gaza fence, killing at least 13 people according to OHCHR. In addition, conservative estimates by NGOs and local health authorities indicate that at least 350 people were injured by live ammunition and rubber-coated metal bullets in October 2015 alone. Nine of the deaths and at least 60 gunshot injuries took place on 9 and 10 October when IDF fired at protestors in Al-Shuja'iya in eastern Gaza City and in the Al-Faraheen area in the eastern Khan Younis. Shots appeared to have been fired at the upper body and heads of protesters, although witnesses say that there was no imminent threat to life or serious injury to soldiers who were positioned in towers, armoured vehicles or behind dirt-mounds, on the other side of the fence.

23. An 18-year old was among those killed on 9 October. Witnesses told OHCHR that he and a small group of friends were peacefully protesting and chanting approximately 150 metres from the fence in the Khan Younis area. A video of the incident shows that some young men had burned a tyre when Israeli forces shot teargas canisters in their direction. According to the witnesses, the victim was hit shortly after that; medical documents show that he was killed by a single shot in the back, which lacerated his heart. The use of live ammunition in such circumstances was unwarranted, as neither he nor other nearby demonstrators posed any imminent threat.

24. Reportedly, IDF subsequently shifted its practice to use more tear gas, warning shots and shots to the legs.[15] Nonetheless, unwarranted use of live ammunition continued, including in at least five incidents documented by OHCHR where peaceful protesters carrying Palestinian flags were shot and wounded.

25. The extensive, often unwarranted, use of firearms by Israeli security forces in law enforcement operations in the Occupied Palestinian Territory, particularly since September 2015, raises serious questions as to whether the rules of engagement, which are confidential, are in compliance with international law and whether such rules are adhered to in practice. Documented instances of soldiers shooting at persons attempting to evacuate the wounded raise similar concerns.

26. Concerns also extend to instances of excessive force through the use of less lethal weapons, such as rubber-coated metal bullets, particularly when they appear to have been fired in contravention of the regulations of the Israeli security forces, which forbid their use at a range of less than 50 metres.[16] The regulations further restrict their use to firing at the legs of "inciters, key disrupters of order or individuals endangering the well-being of a soldier or another individual", and prohibit their use against women and children.[17] However, the inherent imprecision of rubber-coated metal bullets in use — fired as a pack of three cylinders or a canister of pellets — renders such safeguards largely meaningless and invariably causes ostensibly unintended casualties. According to the Office for the Coordination of Humanitarian Affairs, two Palestinians are reported to have been killed and 2,623 injured by rubber-coated metal bullets in the reporting period.[18]

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[15] "Southern Command attempts to contain border clashes without use of live fire", *Jerusalem Post*, 13 October 2015.

[16] B'tselem, "Crowd Control Report", p. 22.

[17] Ibid., p. 23.

[18] This includes black sponge-tipped plastic bullets used instead of rubber-coated metal bullets in East Jerusalem.

27. The United Nations country team and the International Committee of the Red Cross raised concerns about excessive force and access to medical care after disruption of medical services following an Israeli security forces raid on Makassed Hospital in East Jerusalem on 29 October.[19] The Palestine Red Crescent Society has also reported large numbers of Israeli security forces assaults on its staff and ambulances.[20] Some of these incidents have been documented on video.[21]

28. The Government of Israel has an obligation to respect and protect the right to life and integrity of the person, and to act in accordance with relevant international standards. Concerns of the excessive use of force by Israeli security forces resulting in the deaths and injuries of Palestinians during the reporting period build on similar concerns raised over many years (see A/HRC/28/80/Add.1, para. 12). Accountability in such cases is very rare. Without rigorous regulation and effective accountability, the actions of the Israeli security forces are likely to continue to cause unlawful deaths and injuries.

### 2. Collective punishment, including punitive demolitions and closures

29. Punitive demolitions, targeting the family homes of alleged perpetrators of attacks on Israelis, resumed in mid-2014 (see A/HRC/28/80/Add.1, para. 8) and continued during the reporting period. According to the Office for the Coordination of Humanitarian Affairs, six punitive demolitions (including "sealing" houses to render them uninhabitable) were carried out in this period, displacing 46 Palestinians, of whom 26 were children.

30. OHCHR monitored the punitive demolition of the family home of Uday abu Jamal, in East Jerusalem. Mr. Abu-Jamal and his cousin were killed when they attacked a West Jerusalem synagogue in November 2014, killing six Israelis. His parents and four siblings were evicted from their family home by Israeli security forces on 1 July 2015. All entry-points to the house were welded shut and concrete was poured inside, virtually up to the ceiling in most rooms, rendering the house uninhabitable. The family subsequently lived in the backyard, in a tent donated by the International Committee of the Red Cross, which the Israeli security forces confiscated on 7 July.

31. By their very nature, the demolitions of family homes punish the relatives of attackers and alleged attackers, and therefore constitute a form of prohibited collective penalty.[22] The proposal by the Israeli Security Cabinet to revoke the residency rights of family members of alleged attackers raises similar concerns.[23]

32. Furthermore, some punitive demolitions have caused collateral damage to houses and property of neighbours, raising further concerns about the destruction of private property and the right to adequate housing.

33. Punitive demolitions also violate the general prohibition of destruction of private property contained in the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention, art. 53) and, in certain circumstances, may

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[19] See www.un.org/apps/news/story.asp?NewsID=52442#.VlwYv3YrKM8 and http://blogs.icrc.org/ilot/2015/10/30/access-to-healthcare-is-non-negotiable/.

[20] See www.palestinercs.org/en/details.php?nid=1080.

[21] See http://972mag.com/photos-israeli-border-police-assault-pepper-spray-palestinian-journalists/113402/.

[22] Article 33 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) and Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Humanitarian Law*, Vol. 1: Rules, Cambride University Press, Cambridge, 2005 (ICRC Customary Law Study), rules 102-103.

[23] "PM to forward bill allowing state to revoke residency of terrorists", *Times of Israel*, 22 November 2014.

lead to forcible transfer (art. 49). Punitive demolitions also violate a range of human rights, including the right to adequate housing and prohibitions on forced evictions (art. 11 of the International Covenant on Economic, Social and Cultural Rights).

34. On 14 October 2015, following the escalation in violence, the Israeli Security Cabinet announced that, in addition to demolitions, the authorities would forbid any construction on the sites of demolished houses. Moreover, the Prime Minister authorized the police to "impose a closure on, or to surround, centres of friction and incitement in Jerusalem" as a means of preventing further attacks.[24] In the following days, virtually all Palestinian neighbourhoods were closed off with roadblocks, checkpoints and earth-mounds, affecting the daily life of over 300,000 Palestinians residents.[25] In Al-Isawiah, home to nearly 15,000 people, only one road was kept open, with a manned checkpoint, obstructing residents' access to work or school.

35. While Israel, as the occupying Power, can adopt security measures, these should be proportionate to the threat. Disproportionate and discriminatory restrictions are inconsistent with the obligations of Israel to ensure Palestinians enjoy the right to freedom of movement and ensure public life.

36. In Gaza, the unlawful Israeli blockade, which amounts to collective punishment, continued to affect the enjoyment of human rights, particularly economic, social and cultural rights. Despite some positive developments in 2015, including an acceleration of the entry of certain needed materials through the Gaza Reconstruction Mechanism, these remained insufficient to address the overwhelming needs. According to the Global Protection Cluster, as of November 2015, an estimated 95,000 persons remained internally displaced[26] since the 2014 hostilities; over 70 per cent of the population was aid dependent; and 73 per cent were food insecure.[27] The closure of Rafah crossing by Egypt since October 2014, which crossing had previously helped to alleviate the effects of the blockade, has exacerbated the humanitarian situation. Only the lifting of the blockade would enable improvement in the realization of human rights in Gaza (see A/HRC/28/45, paras. 34-42, and A/70/421, paras. 15-29).

### 3. Detention, including administrative detention

37. With hundreds of Israeli security forces search-and-arrest operations every month in the reporting period, Israel detains a large number of Palestinians. As of 31 October 2015, 5,683 Palestinians were "security prisoners".[28] Although there was a decrease in early 2015 after the spike in arrests in mid-2014, according to one NGO, the Palestinian Prisoners Club, 1,500 were arrested in the West Bank, including East Jerusalem in October 2015.

38. In particular, there was a sharp increase in the number of children in detention: from 163 on 30 October 2014 to 307 as of 30 October 2015.[29] This is the highest number of detained children since April 2010, and appears largely due to the significant number of

[24] Israel, Prime Minister's office, "Security Cabinet Approves Series of Additional Measures to Deal with the Wave of Terrorism", 14 October 2015.

[25] Office for the Coordination of Humanitarian Affairs, "New movement restrictions in East Jerusalem as of 5 November 2015". Available at www.ochaopt.org/documents/ej_2015oct21.pdf.

[26] Office for the Coordination of Humanitarian Affairs, "Israel removes restrictions on the import of aggregates", November 2015. Available at http://gaza.ochaopt.org/2015/11/reconstruction-of-over-one-quarter-of-totally-destroyed-homes-ongoing-or-about-to-start/.

[27] Office for the Coordination of Humanitarian Affairs, *Strategic Response Plan 2015*. Available from www.ochaopt.org/srp2015/.

[28] See www.btselem.org/statistics/detainees_and_prisoners (accessed on 31 October 2015).

[29] See www.btselem.org/statistics/minors_in_custody (accessed on 30 October 2015).

children arrested during the surge in violence in October 2015 — 177 according to the Palestinian NGO Addameer.[30]

39. This situation raises questions as to whether the detention of minors is being used only as a measure of last resort, as demanded by the Convention on the Rights of the Child. The Public Committee against Torture in Israel, an NGO, informed OHCHR that it has documented between 40 and 50 children from East Jerusalem, some as young as 12, sent to the Givon prison complex in Ramla, where conditions are reported to be poor.

40. During the reporting period, the number of Palestinian Legislative Council members in detention decreased (from 25 to 5). Yet, the case of Council Member Khalida Jarrar is emblematic of Israeli detention practices. She was arrested on 2 April 2015 and placed under administrative detention by the military commander in the West Bank. On 15 April, she was charged with a range of offences relating to membership of the Popular Front for the Liberation of Palestine and incitement to kidnapping Israeli soldiers. Her trial in the military court was monitored by diplomatic missions and human rights organizations, including OHCHR, and there are serious concerns as to its fairness. The prosecution's evidence appears to be largely based on statements by former and current Palestinian prisoners made after interrogation by the Israel Security Agency. Two witnesses retracted their statements at the first hearing, stating they were made after ill-treatment, threats and coercion. Nevertheless, the judge maintained the original statements as evidence. At a bail hearing on 21 May, the military prosecution told the judge that even if Ms. Jarrar were to be released on bail, she would be held under administrative detention. On 7 December, she was sentenced to 15 months in prison, after she accepted a prosecution plea-deal, reportedly because she did not believe she would be given a fair trial and was concerned that her detention would never end.

41. According to official Israeli statistics, there were 429 administrative detainees (all male) at the end of October 2015, compared with 462 a year before.[31] A reduction during most of 2015 was reversed by a sharp increase in detention orders in October 2015. For the first time since December 2011, administrative detention was applied to children, with three 17-year-old boys from East Jerusalem detained without charge in mid-October for allegedly stone-throwing.[32] A 16-year-old boy from Hebron was detained on 31 October 2015 on allegations of stabbing. In a rare move, three Jewish-Israeli men were also held in administrative detention following the suspected settler attack in Duma village on 31 July.

42. The use by Israel of administrative detention has been widely condemned, including by the Secretary-General and the Human Rights Committee, who called for its end (see A/HRC/28/80, para. 33).[33] This practice is inconsistent with the exceptional nature of detention permitted under article 78 of the Fourth Geneva Convention.

43. Most Palestinian detainees, including administrative detainees and many children, are held in Israel. The prohibition of forcible transfer also applies to detainees to the extent that they may not be deported outside the occupied territory (arts. 49 and 76). The actions of Israel therefore constitute a grave breach of the Fourth Geneva Convention (art. 147).

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[30] Addameer, "Israeli occupation arrests 1,195 Palestinians and issues 128 administrative detention orders", 2 November 2015. Available at www.addameer.org/news/addameer-israeli-occupation-arrests-1195-palestinians-and-issues-128-administrative-detention.

[31] See www.btselem.org/administrative_detention/statistics.

[32] See www.dci-palestine.org/three_east_jerusalem_teens_held_in_administrative_detention.

[33] See also OHCHR spokesperson, press briefing, 10 April 2015.

### 4. Hunger strikers, torture and ill-treatment

44. During the reporting period, some Palestinian administrative detainees resorted to hunger strikes to protest against their unlawful indefinite detention without charge. For instance, lawyer Mohammad Allan, who had been detained since 11 November 2014, began a hunger strike on 16 June 2015. On 10 August, he was moved into intensive care at a hospital, chained to a bed despite his obvious weakness. On 14 August, he lapsed into a coma for four days, and was reportedly given minerals intravenously. On 20 August, he ended his hunger strike after 65 days, when the Israeli High Court suspended his administrative detention. The suspension was directed on the grounds that his MRI scan showed extensive brain damage and that he could not be a security risk. However, he was detained again on 16 September and resumed his hunger strike until his release, on 4 November, when the detention order expired.

45. Mohammad Allan was among the first detainees at risk of force-feeding after an amendment to the Israeli Prisons Act, passed by the Knesset on 30 July 2015, permitted a District Court President to authorize force-feeding of a detainee on hunger strike.[34] Although its stated aim was to save the life of the detainee, the legislation allows the Courts to factor into their decisions the State's security and public safety. In a further similarity with the administrative detention process — the root of many hunger strikes — the Court may make its decision in a closed session and on the basis of secret evidence, not accessible by the detainee's lawyer. The bill included an important safeguard, namely the requirement that a doctor certify that the patient would be in immediate, mortal danger were the hunger strike to continue. However, the final text referred to the Hebrew term *metapel* (instead of doctor),[35] which, in Israeli law, encompasses medical trainees, midwives, physiotherapists, occupational therapists, speech therapists and nutritionists (see Patients' Rights Act, 1996).

46. Various United Nations bodies and experts have raised concern about the enactment of this law, reiterating that force-feeding was tantamount to cruel, inhuman or degrading treatment, and a violation of the right to health.[36] The Israel Medical Association stated that force-feeding amounted to torture. In September 2015, several Israeli organizations challenged the law before the High Court. The petition is currently pending.

47. OHCHR has received reports of ill-treatment of detainees generally. The Public Committee against Torture in Israel submitted 23 complaints of torture to investigatory bodies relating to the current reporting period.[37] Most allegations refer either to assaults at the time of arrest or beating and threats during interrogation, particularly by the Israel Security Agency. Common means of ill-treatment include sleep deprivation, stress positions, sexual harassment and physical assaults. The United Nations Children's Fund (UNICEF) and partner organizations also documented 58 cases of West Bank children reporting ill-treatment by the Israeli security forces. Common complaints were physical violence, being blindfolded with hands painfully tied, and strip searches, while some reported being held in solitary confinement.

48. On 4 July 2015, the Knesset extended the temporary law exempting the interrogations of Palestinian "security suspects" from audiovisual recording for an additional year and a half; the latest in a series of continuous extensions since 2002. This

[34] The bill was introduced at the time of the mass hunger strikes, in June 2014 (see A/HRC/28/80, para. 34).

[35] Addameer, "Factsheet: Force-feeding under International Law and Medical Standards", 16 November 2015.

[36] Joint statement on new Israeli law on force-feeding of detainees, 8 August 2015; "UN experts urge Israel to halt legalization of force-feeding of hunger-strikers in detention", 28 July 2015.

[37] Public Committee against Torture in Israel, "Update – November 1st, 2014 – October 31st, 2015".

removes a key safeguard against torture, ill-treatment and the extraction of "confessions" under duress (see CCPR/C/ISR/CO/4, para. 14).

### 5. Changes to laws affecting children's rights

49. On 20 July, the Knesset amended the criminal law to increase the maximum sentence for throwing stones or other objects at moving vehicles, to 20 years when the intent to harm the occupants of the vehicle can be established (irrespective of the harm caused), and 10 years when the intent cannot be proven. Throwing stones at a police vehicle can lead to a sentence of up to five years, irrespective of whether damage or injury was caused.

50. This was followed by a retrograde change in policy, in August 2015, by the State Prosecutor, requiring all prosecutors to seek detention of suspects charged with stone-throwing until the end of legal proceedings. This practice had already been used by the Jerusalem District Attorney's Office since July 2014, reportedly with the result that most arrested children remained in detention for at least two to three months before release. The prosecutorial directive is inconsistent with the presumption of release on bail under the International Covenant on Civil and Political Rights. The measures invariably target Palestinian children who tend to resort to such forms of protest, and therefore violate the requirement that the detention of children be a measure of last resort (art. 37 (b) of the Convention on the Rights of the Child).

51. On 2 November 2015, the Knesset passed an additional temporary order, valid for three years, amending the Youth Law and the National Insurance Law, thereby providing for the revocation of national insurance entitlements for children convicted of "security-related" offences (including stone-throwing), and imposing a fine of 10,000 shekels (approximately US$ 2,500) on parents of a child convicted of stone-throwing.

### 6. Human rights defenders and journalists

52. Physical attacks against, and harassment of, human rights defenders continued, especially against the backdrop of the upsurge of violence since September 2015. Protective presence organizations in Hebron faced repeated threats, assaults and arrests, by settlers and Israeli security forces. In October 2015, posters appeared in Hebron with photos of staff of these organizations, branding them as anti-Semitic "hostile anarchists" and calling for them "to be dealt with".

53. The Palestinian Centre for Development and Media Freedoms documented hundreds of instances of journalists subjected to harassment over the reporting period.[38] In a number of instances, journalists reporting on protests were physically assaulted by elements of the Israeli security forces, who also damaged or confiscated their equipment.[39] Journalists and human rights defenders have a vital role in society as they report on human rights violations and abuses and promote accountability. Their harassment has a chilling effect on freedom of expression.

### 7. Hostilities in Gaza

54. According to the Department of Safety and Security of the Secretariat, during the reporting period, Israel carried out 31 airstrikes in Gaza, reportedly in retaliation for 24 rockets fired into Israel by Palestinian armed groups (a further 66 fell short). In one incident

[38] See www.madacenter.org/reports.php?id=13&lang=1.

[39] See http://972mag.com/watch-israeli-soldiers-attack-cameras-belonging-to-palestinian-foreign-journalists/112049.

on 11 October 2015, an Israeli airstrike directly hit a Palestinian home in Zeitoun, west of Gaza City, killing a pregnant woman and her 2-year-old daughter. IDF claimed they had targeted a known "weapons production site".[40] However, OHCHR did not find any indications of such facilities in the vicinity of the attack, which only impacted the family's home, a civilian structure, which, under international law, should not be targeted.

55. IDF also reportedly conducted 46 incursions, up to 300 metres into Gaza, levelling the ground and compromising access of local farmers to their livelihoods.

## B. Palestinian authorities

### 1. Arbitrary detention and administrative detention

56. During the reporting period, OHCHR documented cases of arbitrary arrests and detentions, mainly of persons affiliated with opposition groups. In particular, mass arrests of individuals with alleged links to Hamas and Islamic Jihad were carried out in early March and early July 2015 in the West Bank.

57. An emblematic case is that of two Hamas activists who were arrested by the General Intelligence Service (GIS) in early February 2015, in Hebron, on charges of money laundering. GIS failed to respect a court order on 18 February for their release on bail and the two men remained in detention on new grounds, namely for "inciting sectarian strife". The following day, the prosecution introduced an additional indictment for possession of an unlicensed weapon. On 22 February, the two men were granted bail by the court on all charges. Despite the rejection of the prosecution's appeal, they remained in detention until 3 March.

58. OHCHR inquiries into a number of similar cases revealed that, although the detainees were expecting to be released on bail, their continued detention was sanctioned by administrative orders issued by provincial governors (see A/HRC/28/80, para. 46). Administrative detention also appears to be regularly used to cover the initial days after the arrest, effectively sidestepping the important safeguard of being promptly brought before a judge (art. 9 (3) of the International Covenant on Civil and Political Rights). The Palestinian Independent Commission for Human Rights thus registered 75 complaints of administrative detention during the reporting period.[41] A majority of detainees interviewed by OHCHR also appear to have been held administratively at some stage, while international human rights law stresses the exceptional nature of such detention.

59. OHCHR is concerned about the practice by Palestinian security agencies of detaining people "for their own security". For instance, Islam Hamed was not released after the completion of a three-year sentence, despite an order from the Palestinian High Court, on 24 November 2014, that his continued detention was illegal. GIS informed OHCHR that the continued detention was for Mr. Hamed's own safety, as he was under threat from the Israeli security forces. He was eventually released on 21 July 2015, after a two-month hunger strike, when his family had signed a waiver absolving the Palestinian Authority of any liability for his safety. OHCHR has documented other cases where detentions are reported to have taken place "under the order of the Head of Agency", referring to GIS and the Preventive Security Service. The legal basis of such detentions is unclear.

[40] See www.idf.il/1133-22784-he/Dover.aspx (available in Hebrew only).

[41] Monthly reports on website.

### 2. Torture and ill-treatment

60. Torture and ill-treatment are prohibited under Palestinian law. OHCHR has enjoyed the cooperation of the Palestinian authorities in gaining unannounced and unrestricted access to Palestinian Preventive Security and GIS detention facilities (see A/HRC/25/40, para. 44). In some instances during the reporting period, the Office was refused access to detention centres run by GIS. In March 2015, the Independent Commission for Human Rights denounced the decision of the Palestinian police prohibiting its staff from visiting a detainee in the Ramallah Rehabilitation and Correction Centre.[42] Such restrictions are particularly concerning as OHCHR continued to receive reports of ill-treatment and the Independent Commission for Human Rights registered 194 complaints of torture and ill-treatment during the reporting period. In some instances documented by OHCHR, detainees reported ill-treatment but were unwilling to share details owing to threats and fear of reprisal by the authorities. In a few instances, detainees denied being ill-treated despite visible injuries.

61. Opposition activists, including students, appeared to be particularly targeted by Palestinian security agencies. Between 17 December 2014 and 26 February 2015, seven Hamas-affiliated students held a sit-in at Birzeit University, which they refused to leave for fear of arrest and ill-treatment as they had previously been detained and allegedly ill-treated on several occasions. OHCHR intervened with the authorities who repeatedly gave assurances that ill-treatment would not be condoned. On 28 February, one of the students was arrested by the Preventive Security Service and detained until 2 March. After his release, he informed OHCHR that he had been kept in *shabeh* (a stress position for an extended period of time) for nearly six hours: he had been made to stand face to the wall with arms lifted and had been told not to touch the wall. In the interrogation that followed, he was reportedly slapped on the face five times. He stated that, at the end of the session, his hands were tied to the top of a ladder with his own belt and he was left suspended. He told OHCHR that, when he cried out in pain, the officers told him they had high-level clearance to kill him. They reportedly later put him in *shabeh* again until the next morning, checking every half hour whether he was willing to talk.

62. In another case documented by OHCHR, the detainee had been transferred many times to different GIS detention centres and reportedly repeatedly tortured over many weeks. He reported being held in *shabeh* for hours at a time, blindfolded, with his hands tied behind his back and pulled up, and tied to a rope fixed to the ceiling, with toes barely touching the ground and the weight of his entire body on the shoulders. He testified in detail to being slapped, punched, kicked and beaten with a baton on his palms and the soles of his feet, and with an electric cable, on the lower part of his body. Medical reports examined by OHCHR, along with bruises on his body were consistent with his testimony.

### 3. Excessive use of force

63. OHCHR received allegations of unwarranted or excessive force, gratuitous violence and abuse of power by Palestinian security forces. For instance, on 2 December 2014, in Al-Yamon village, members of the Palestinian special police force reportedly used batons to beat dozens of unarmed people at a condolence meeting, after accusing them of shielding wanted individuals. On 2 January 2015, in Misliya village, the Palestinian Special Police Force and the Palestinian National Security Forces allegedly assaulted several people, largely bystanders, after family members of a detainee attacked a police car and released him from custody. Under the Basic Principles on the Use of Force and Firearms by Law

[42] Independent Commission for Human Rights, press statement, 4 March 2015.

Enforcement Officials, it is required that arbitrary or abusive use of force should be punishable as a criminal offence.

64. On 18 September 2015, near the Azza refugee camp, Bethlehem, the Palestinian National Security Forces used live ammunition, tear gas and stun grenades against demonstrators throwing stones. They reportedly assaulted some of the young men in their custody with batons.[43] The use of live ammunition in the absence of imminent threat to life or serious injury, and the violence against detainees are inconsistent with the international obligations of the State of Palestine, notably under the International Covenant on Civil and Political Rights. Although the Prime Minister and the Commander of the Palestinian National Security Forces promptly announced the establishment of two committees to investigate the Bethlehem incident, accountability for instances of excessive use of force generally remains rare.

65. On 23 May 2015, GIS officials in Jenin shot a man in the leg after having restrained him. His brother was severely beaten to the extent that his genitals were crushed and required partial surgical removal. The brothers filed a complaint with Military Intelligence, but OHCHR was informed that the victims were repeatedly pressured to withdraw their complaint because the main GIS official they accused is a senior Fatah leader. OHCHR is not aware of any investigation into the incident.

### 4. Freedom of expression

66. OHCHR has received reports of violations of the right to freedom of expression, particularly regarding people critical of the Palestinian Authority leadership. The case of Lama Khater, a writer known for supporting Hamas, is emblematic. She and her family have been subjected to repeated threats and harassment by the security forces for her writing and her organization of peaceful demonstrations. One instance monitored by OHCHR took place late at night on 22 March, when Ms. Khater's house in Hebron was raided by GIS. They did not show any arrest or search warrant. They allegedly used force against Ms. Khater's husband and detained him for one night.

67. Information received by OHCHR indicates that Palestinian security agencies appear to be monitoring Palestinians' social media activity. OHCHR documented some cases where journalists and civil society activists were threatened or arrested for comments made online criticizing the Palestinian leadership. Such harassment and unlawful restrictions have a general chilling effect on freedom of expression.

### 5. Death penalty

68. No executions were reported between 1 November 2014 and 31 October 2015, in accordance with the President's policy. However State prosecutors continued to seek death sentences and courts issued them in two cases. On 11 January 2015, the Permanent Military Court in southern West Bank condemned to death for treason a 27-year-old man from Jenin. On 16 September 2015, the Ramallah Court of Appeal sentenced a man to death for murdering his sister-in-law and her two children, after a successful appeal by the prosecution. As of November 2015, both cases were under appeal.

[43] See video published by Middle East Eye. Available at www.youtube.com/watch?v=-uOpsGV6isc&feature=youtu.be.

## C. Authorities in Gaza

### 1. Due process violations, torture and ill-treatment

69. Arbitrary arrests and other due process violations, as well as torture and ill-treatment by security forces, remained issues of concern in Gaza. During the reporting period, the Independent Commission for Human Rights registered at least 708 complaints of arbitrary detention and violations of due process guarantees, and 462 allegations of torture or ill-treatment. The majority of allegations were against local police forces, but corrections officers and members of the internal security apparatus also stand accused.

70. Information collected by OHCHR indicates that security forces often arbitrarily summon and sometimes unlawfully detain citizens for prolonged periods of time, often incommunicado. Reported violations included excessive use of force upon arrest, denial of the right to remain silent, and to have legal representation and contact with family.

71. Reports of torture or ill-treatment described beatings with belts, water pipes and sticks, verbal abuse and intimidation, sensory deprivation, *shabeh*, waterboarding and prolonged solitary confinement. The level of violence employed during certain interrogations required detainees to be hospitalized, including owing to open wounds, internal bleeding and fractures. OHCHR suggests that particularly harsh interrogation techniques appear to be used against detainees suspected of treason or of belonging to Salafi groups. Relatives of detainees were also reportedly targeted for harassment and arrest by security officials.

72. Members and supporters of Fatah in particular have reported a consistent campaign by security forces, in particular the internal security apparatus, of summons and arrests and torture or ill-treatment. For example, a senior Fatah official and his colleagues were reportedly warned by senior security officials, on 31 December 2014, not to mark Fatah's fiftieth anniversary that week. On 4 January 2015, the official was summoned to Ansar police station and driven to an undisclosed location along with another Fatah member. He was allegedly forced to undress, was interrogated and was denied the opportunity to pray. He was also beaten, forced to endure *shabeh* and hung from the wall for almost an hour. No arrest warrant was produced and charges were never levelled against him. He claimed that he has been detained and interrogated over 40 times by local security officials owing to his affiliation with Fatah.

### 2. Rights to freedom of expression and peaceful assembly

73. Reportedly, Gaza authorities have increasingly sought to silence political opposition or critics, and failed to protect persons from third-party attacks due to their beliefs and opinions. Internal security forces (as well as unidentified armed individuals) have allegedly employed excessive use of force and gratuitous violence to disperse peaceful assemblies.

74. Among the rallies disrupted were those of political opponents, gatherings denouncing the deteriorating economic situation, failing public services or protesting actions by security forces. Several individuals were detained in connection with these gatherings and forced to sign "moral codes of conduct" or declarations that they would not disturb peace again.

75. On a few occasions, security forces stated they had intervened during demonstrations because prior authorization had not been sought. Nevertheless, under international human rights law and the Palestinian Public Meetings Law No. 12 of 1998, the prior consent of authorities is not required to hold peaceful assemblies.

76. Palestinian human rights organizations have noted a marked increase in attacks on freedom of the press, either by local authorities or unidentified armed individuals. The

Palestinian Centre for Development and Media Freedoms registered at least 45 such cases in the first six months of 2015, compared to 24 cases in 2014.[44]

77. OHCHR found several instances where journalists were prevented, often through force, from covering events deemed critical of Hamas. Others have been questioned at police stations about social media posts or articles critical of Gaza authorities.

78. On 29 April 2015, in Al-Shuja'iya neighbourhood, security officials and members of different Islamic factions in the Gaza Strip interrupted a student gathering calling for Palestinian unity. Participants were reportedly beaten with clubs and metal bars and shot at, including by plain-clothes security forces. The authorities claimed that they intervened when fighting broke out during the protest. Journalists who witnessed the scene stated that security officials tried to prevent them from covering the event, assaulted them and destroyed equipment.

### 3. Death penalty

79. No executions were carried out within the Gaza Strip during the reporting period. However, local courts issued two death sentences related to murder charges while the Permanent Military Court sentenced four individuals to death (one in absentia) for collaboration with Israel.

## IV. Accession by the State of Palestine to international human rights treaties

80. During the period under review, the Government of the State of Palestine advanced in the preparation of the first round of reports under the seven human rights treaties to which it acceded in 2014. OHCHR was informed that the first drafts of reports under the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women are under internal review and will be submitted for national consultations. OHCHR worked with the Government to ensure that line ministries use the reporting process to establish baselines from which to monitor implementation of human rights in the context of national development programming. OHCHR has also been supporting the Independent Commission for Human Rights in assuming its important role as the bridge between the Government and civil society with regard to treaty implementation and monitoring.

## V. Recommendations

### A. Government of Israel

81. **The High Commissioner recommends that the Government of Israel:**

(a) **Carry out an independent review of the Israeli security forces rules of engagement and ensure that they are consistent with international human rights law and standards, along with the actual use of force and firearms in the context of law enforcement (including in the access restricted areas);**

[44] See www.madacenter.org/index.php?lang=1.

(b) **Ensure that all torture and ill-treatment is outlawed and swiftly ended, and remove exemptions for interrogations of Palestinian "security suspects" from the requirement to record interrogations;**

(c) **Conduct prompt, thorough, effective, independent and impartial investigations into all incidents of the use of force leading to death or injury, ensuring they are subject to public scrutiny;**

(d) **Hold to account all individuals responsible for human rights violations and provide victims with an effective remedy;**

(e) **End all forms of collective punishment, including the blockade on Gaza and punitive demolitions;**

(f) **Ensure that the Israeli Prisons Act is consistent with international human rights law; in particular, repeal provisions allowing force-feeding of detainees on hunger strike;**

(g) **End the system of administrative detention and ensure that all detainees are promptly charged or released;**

(h) **Respect international humanitarian law, particularly the principles of distinction, proportionality and precaution, and ensure accountability for all violations.**

## B. Government of the State of Palestine

82. **The High Commissioner recommends that the Government of the State of Palestine:**

(a) **Ensure that arbitrary arrests and detentions are not carried out — due process guarantees should be respected and no person should be held without legal basis or in a manner inconsistent with international human rights law;**

(b) **End the widespread practice of administrative detention through governors' orders in the West Bank — detainees should be promptly charged or released;**

(c) **Ensure that torture and ill-treatment are promptly ended and that rules of engagement and actual use of force and firearms by law enforcement officials are consistent with international human rights law and standards;**

(d) **Conduct and ensure prompt, thorough, effective, independent and impartial investigations into all incidents of use of force leading to death or injury, ensuring that they are subject to public scrutiny, bring perpetrators to justice and provide victims with an effective remedy;**

(e) **Respect the right to freedom of expression and peaceful assembly, including for journalists and those with perceived links to opposition groups, and ensure thorough and transparent investigations into allegations of attacks by third parties against journalists and activists;**

(f) **Announce a moratorium on the death penalty including the award of such sentences, as a step towards abolition.**

## C. Authorities in Gaza and Palestinian armed groups

83. **The High Commissioner calls upon the authorities in Gaza:**

(a) **To take all measures necessary to ensure that the rights of persons deprived of liberty are respected, including by ensuring effective, independent, impartial, thorough and transparent investigations into allegations of torture and ill-treatment, and ensure that perpetrators are brought to justice and that victims have access to an effective remedy;**

(b) **End unlawful restrictions on freedoms of expression and peaceful assembly.**

84. **In Gaza, the authorities and Palestinian armed groups should respect international humanitarian law, particularly the principles of distinction, proportionality and precaution, and ensure accountability for all violations.**